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EXAMINER

WILLIAMS, CLAYTON R

ART UNIT

PAPER NUMBER

2457

NOTIFICATION DATE

DELIVERY MODE

03/19/2009

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

10/807,137

Applicant(s)

LAUKAMM ET AL.

Examiner

Clayton R. Williams

Art Unit

2457

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 December 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SG/US)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. Claims 1-12 are pending in this application per amendment.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 1-12 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Specification does not support claim 1 limitation "automatically sending directly from the at least one query data server an input request" (emphasis added). No where does specification detail a query data server directly sending an input request to a client computer.

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1, limitation 4 fails to set forth destination for "input request" which is transmitted "directly" by the query data server. Unclear to whom/where the request is destined; as well, "response data from the client to the user of the client" phrased without precision.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1, 2 and 4-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Dyer et al., US 2002/0099591 (hereinafter Dyer).

For claim 1, Dyer discloses Data transmission process for transmission of data sets between at least one query data server, at least one display data server and at least one client ([0031], lines 1-3 and [0036], disclosure of query server separate from display server) comprising the steps of:

maintaining a display data set on the at least one display data server and making the data set accessible to the at least one client via an online connection which has

been set up at least temporarily from the at least one client to the at least one display data server ([0029], lines 20-23, disclosure of server providing access to contents of a vendor's website),

automatically retrieving and transmitting the display data set from display data server to that at least one client via the online connection which has been set up at least temporarily and displaying the retrieved display data set at the at least one client for viewing by a user in a first display window ([0031], lines 1-3),

initiating of a query process by an input from the user in a second display window ([0035], lines 1-2), and

in response to said input, at least partially overlapping in time with displaying of the display data set retrieved from the display data server in said first display window, based on a query data set which is different from the display data set, automatically sending directly from the at least one query data server, an input request for inputting of response data from the client to the user of the client, wherein the input request is displayed in the second display window at least partially overlapping in time with retrieved data displayed in said first display window ([0035], lines 1-4, disclosure of questionnaire data stemming from source separate from webpage being served and lines 12-16, disclosure of questionnaire data being presented alongside webpage to requesting user).

For claim 2, Dyer discloses Data transmission process as claimed in claim 1, wherein

the response data input by the user in response to the input request are automatically transmitted to a feedback server ([0037], lines 1-4).

For claim 4, Dyer discloses Data transmission process as claimed in claim 2, wherein the query data set is transmitted automatically online via a connection which has been set up at least temporarily from the query data server to the client ([0037], lines 1-4).

For claim 5, Dyer discloses Data transmission process as claimed in claim 4, wherein the feedback server ([0035], lines 1-3) is used as a query data server ([0035], lines 10-12).

For claim 6, Dyer discloses Data transmission process as claimed in claim 2, wherein the input of the response data ([0035], lines 1-3) and automatic transmission of the response data to the feedback server takes place via the client ([0042], lines 4-7, user response received by browser, box 310, and is forwarded to server, box 320).

For claim 7, Dyer discloses Data transmission process as claimed in claim 1, wherein a shared display device is used for displaying of the display data set, for inputting requests based on the query data set and for inputting of response data data ([0031], lines 2-5, disclosure of web browser forming display from HTML data transmitted from web server; [0035], lines 16-18, further disclosure of questionnaire being composed of HTML that is rendered by browser).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dyer, in view of Hewitt et al., US 2001/0034219, (hereinafter Hewitt).

For claim 3, Dyer fails to explicitly disclose Data transmission process as claimed in claim 1, wherein displaying of the display data set retrieved from the display data server and the input request based on the query data set take place synchronously from the client to the user of the client for input of response data.

However, Hewitt discloses a tuning service 120, its associated databases 181-187 ([0029], user can express interests by voting on songs or filling out surveys; [0031], this information can be used to refine content offered to listener) and an enhanced services 190 using information provided by a radio appliance 150 to provide content to a user ([0032], lines 3-8). More specifically, the teachings of Hewitt allow for a client/server web-based system wherein the server tailors delivery of content to the user based on both the user actively filling out surveys [0029], as well as the system passively monitoring other user actions, i.e. [0030], turning on of radio or changing

stations or volume of the radio. Dyer and Hewitt are analogous art because both are from the field of server-side delivery of digital media content.

It would have been obvious to one skilled in the art at the time of the invention to modify the teachings of Dyer with Hewitt, because this modification would allow for delivery of tailored content in response (i.e., instantaneously or as near so as practicable) to user submissions (Hewitt, [0006], lines 7-12). As such, the combination of Dyer of Hewitt teaches a system that synchronously gathers display sets of data from a user while simultaneously altering the content delivered to a user in response to this gathered data.

9. Claims 8-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dyer, in view of Gorodetsky et al., US 2002/0124049 (hereinafter Gorodetsky), and further in view of Lippiner et al., US 2002/0147776 (hereinafter Lippiner).

For claim 8, Dyer fails to explicitly disclose Data transmission process as claimed in claim 1, wherein a plurality of display data sets are automatically transmitted in succession in time from the at least one client and are displayed by the client, a respective request for inputting of response data being sent automatically from the at least one client to the user thereof in a manner at least partially overlapping in time with displaying of the respective display data set from the client based on a respective query data set which differs from the display data set.

However, Gorodetsky discloses a java applet embedded into web pages that allows for asynchronous pushing of information to a web browser ([0019], reading on limitation claiming automatically transmitting a plurality of data sets to a client). Dyer and Gorodetsky are analogous art because all are from the field of delivery of web-based content to clients.

It would have been obvious to one skilled in the art at the time of the invention to modify the combination of Dyer with Gorodetsky, a java applet which would allow for server-side pushing of web content, because this modification allows for delivery of content whose progression is controlled by a server platform.

The combination of Dyer and Gorodetsky fails to disclose:

“a respective request for inputting of response data being sent automatically from the at least one client to the user thereof in a manner at least partially overlapping in time with displaying of the respective display data set from the client based on a respective query data set which differs from the display data set”

However, Lippiner teaches a system for surveying visitors to a website that discloses the central server 102 launching a survey, as a separate popup window, on the visitor's computer that does not prevent the originally requested page from loading ([0038], lines 1-4). The combination of Dyer and Gorodetsky and Lippiner are analogous art because both are from the field of delivery of web-based surveys to clients.

It would have been obvious to one skilled in the art at the time of the invention to modify the teachings of the combination with Lippiner, because this modification would allow for entry of client input/responses to server delivered surveys simultaneously with delivery of refreshed "display sets".

For claim 9, the combination of Dyer, Gorodetsky and Lippiner discloses Data transmission process as claimed in claim 8, wherein there is a predetermined control mechanism in which the display data set which is to be displayed and the pertinent respective query data set for the input request, are fixed for controlling of an automatic progression (Gorodetsky, [0019], embedded java applet teaches "control mechanism" with which to automatically advance display sets and collect query data sets from user input requests).

For claim 10, the combination of Dyer, Gorodetsky and Lippiner discloses Data transmission process as claimed in claim 9, wherein the control mechanism is kept at the client or is transmitted automatically via a connection which has been set up at least temporarily from the query data server to the client (Gorodetsky, [0019]).

10. Claims 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dyer, in view of Musgrove et al., US 6,725,222, (hereinafter Musgrove).

For claim 11, Dyer discloses fails to explicitly disclose Data transmission process as claimed in claim 1 wherein the progression of the process is automatically protocolled.

However, Musgrove discloses a web server 20 (col. 4, lines 39-40) that utilizes cookies (col. 5, lines 66-67 through col. 6, lines 1-2) to maintain the state of interaction between a client and the server (col. 6, lines 24-31). Dyer and Musgrove are analogous art because both are from the field of providing web content to users over the internet.

It would have been obvious to one skilled in the art at the time of the invention to modify Dyer with Musgrove, because this modification would allow for an interrupted session between a client and server to resume where it left off.

For claim 12, the combination of Dyer and Musgrove disclose Data transmission process as claimed in claim 1, wherein the automatic protocolling is performed on a server which is different from the client (Musgrove, col. 6, lines 24-31, disclosure of server associating client cookie ID with session state).

Response to Arguments

Applicant's arguments have been fully considered but they are not persuasive.

Applicant argues specification supports claim limitation of a query server "directly" transmitting an input request to a client computer. Examiner respectfully disagrees. Fig.1 of Applicant's disclosure does no more than depict a plurality of computing entities which are connected to "the internet". The figure in and of itself does

not teach a "direct" connection between a client computer and a server. Moreover, para. [0027] and [0040], as cited by Applicant in the submitted remarks, also fail to demonstrate support for a "direct connection" in which a query server computer "directly" transmits an input request to a client computer. Lastly, "direct", as used throughout the specification, is subject to its temporal interpretation. Throughout the specification, "directly" is employed as implying rapid transmission of data to a query server in order that the collected data not age at the collecting client computer.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Clayton R. Williams whose telephone number is 571-270-3801. The examiner can normally be reached on M-F (8 a.m. - 5 p.m.).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on 571-272-4001. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Mar. 10, 2009
CRW

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